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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/942,134	08/29/2001	Alejandro Agudo Crespo	FR920010022US1	6568

26502 7590 05/06/2004

IBM CORPORATION
IPLAW IQ0A/40-3
1701 NORTH STREET
ENDICOTT, NY 13760

EXAMINER

DAS, CHAMELI

ART UNIT	PAPER NUMBER
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2122

DATE MAILED: 05/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Applicant(s) 09/942,134	Applicant(s) CRESPO ET AL.
	Examiner C.DAS	Art Unit 2122

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 August 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2-23-01</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. Claims 1-19 are pending.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-19 are rejected under 35 U.S.C. 102(a) as being anticipated by Cheng et al, (Cheng), US 6,151,643.

As per claim 1, Cheng (US 6,151,643) discloses:

- means couple to the at least one server computer for storing the package and an identification data of the at least one end-user computer (Abstract, lines 1-17, A system and method update client computers of various end users with software updates for software products installed on the client computers, the software products manufactured by diverse, unrelated software vendors. The system includes **a service provider computer system**, a number of client computers and software vendor computer systems communicating on a common network. **The service provider computer system stores** in an

- update database information about the software updates of the diverse software vendors, identifying the software products for which software updates are available, their location on the network at the various software vendor computer systems, information for identifying in the client computers the software products stored thereon, and information for determining for such products, which have software updates available. ***Users of the client computers*** connect to the service provider computer and obtain a current version of portions of the database. The client computer determines that software products stored thereon, and using this information, determines from the database, which products have updates available, based on product name and release information for the installed products")
- means for sending the package from the storing means ... end-user computer (Abstract, lines 1-25, column 16, lines 20-25, column 19, lines 61-67, column 20, lines 1-10)
 - means couple to the sending means for creating on the at least one server computer an installation program... end-user computer (abstract, lines 15-24, column 19, lines 61-67, column 20, lines 1-9, column 20, lines 64-65 and column 23, lines 9-23)
 - said identification data comprises at least a location data where said at least one end-user computer is installed and a function data ... performs in the network (Abstract lines 12-14, column 5 lines 8-32).

As per claim 2, Cheng discloses:

- Assigning to said package said at least one end-user computer location data ... computer function data (column 5 lines 6-32).

As per claim 3, Cheng discloses:

- network further comprises a plurality of en-user computer to be installed with a plurality of packages (Abstract, lines 1-5, Fig 1, col 5 lines 6-32),
- function information is arranged into a plurality of function classes ... common function in the network (column 11, lines 5-20, column 12, lines 62067, column 3, lines 40-60, column 7, 5-10, column 9, lines 30-55, column 23, lines 35-40).

As per claim 4, Cheng discloses:

- plurality of function classes comprises a client function class and a server function class (column 6, lines 7-12, column 5, lines 20-25, column 6, lines 31-36, column 7, lines 46-52, column 8, lines 32-36, column 13, lines 58-62).

As per claim 5, Cheng discloses:

- identification data further comprises information on hardware (abstract, lines 12-17, "information for identifying in the client computers the software stored thereon, and information for determining of such products ... database", column 13, lines 1-15), software configuration ... in the network (column 4, lines 55-60, column 8, lines 55-60, column 9, lines 32-10).

As per claim 6, Cheng discloses:

- storing means further comprises means for up-dating an installation status ...computer (column 3, lines 5-124, column 3, lines 60)

As per claim 7, Cheng discloses:

- updating a package status ... packages (column 3, lines 5-124, column 3, lines 60)

As per claim 8, Cheng discloses:

- creating the package and means for sending ... to the storing means (column 10, lines 35-54, column 25, lines 56-64).

As per claim 9, Cheng discloses:

- performing an initial load ... en-user computer (column 7, lines 5-11).

As per claim 10, Cheng discloses:

Initial load comprises a bootable device ... boots (column 7, lines 5-10), "automatically initiate the process" inherently including the initial loading of the user computer as claimed and computer system includes memory, operating system inherently including bootable device as claimed.

Claims 11-19 are the method claims corresponding the system claims 1-9 and rejected under the same reason set forth in connection of the rejections of claims 1-9.

4. The prior art made or record and not relied upon is considered pertinent to applicant's disclosure.

TITLE: Automatic software updating method, US 5909581 A

TITLE: System and method for installing applications on a computer on an as needed basis, US 5960204 A

TITLE: System and method for improving the manageability and usability of a Java environment, US 6571389 B1

TITLE: Reversible load-time dynamic linking, US 6499137 B1

TITLE: Systems and methods for automatic application version upgrading and maintenance, US 6360366 B1

TITLE: Acquisition and operation of remotely loaded software using applet modification of browser software, US 5923885 A

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chameli Das whose telephone number is 703-305-1339.

The examiner can normally be reached on Monday-Friday from 7:00 A.M. to 3:30 P.M. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Tuan Dam can be reached at 703-305-4552. The fax number for this group is (703) 872-9306.

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An inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is 703-305-9600.

Chameli C. Das

**CHAMELI C. DAS
PRIMARY EXAMINER**

Art Unit 2122

4/30/04